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REMARKS

Claims 1 – 14 are pending in this application with claims 1 and 3 – 10 being amended by this response. Support for the amendments to claims 1 and 3 – 10 can be found in Figures 1 and 3 and throughout the specification. Specifically, support for these amendments is found on pages 6 – 8 of the specification. Thus, applicant respectfully submits that no new matter is added by the amendments to claims 1 and 3 – 10.

I. Oath and Declaration

The Examiner cites that the present application is missing the required Oath and/or Declaration. Applicant respectfully submits that the Declaration was filed with the United States Patent and Trademark Office on February 27, 2002. A copy of the filing receipt indicating the receipt thereof by the United States Patent and Trademark Office is attached hereto along with a copy of the previously submitted executed declaration. In view of the attached copy of the filing receipt and Declaration, it is respectfully submitted that a proper Declaration was timely filed and that filing of a new Declaration is not required.

II. Rejection of Claims 1 – 14 are rejected under 35 U.S.C. 102

Claims 1-14 stand rejected under 35 U.S.C 102(e) as being unpatentable over U.S. Patent 6,453,469 to Jystad.

The present claimed invention discloses a system and method for updating a target application with adaptively selectable functions provided by a corresponding plurality of software application data elements. The system includes a source of a plurality of application data elements. These application data elements correspond to a plurality of individually user selectable functions of a particular target application and are suitable for updating a plurality of different target applications. A first processor is provided for identifying and extracting selected application data elements from the source in response to user selection of an individual function from the plurality of individually user selectable functions of the particular target application. Furthermore, an output processor is included for mapping the extracted selected application data elements to corresponding file locations using mapping information associating the selected application data elements with file location data of the corresponding data elements. Independent claims 1, 7 and 10 include limitations similar to those discussed above.

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Jystad discloses a method and apparatus for automatically installing a target application module and de-installing the target application module if it fails to execute or function properly. In one embodiment, the method includes determining whether a shared resource exists on a target media, and, if the shared resource exists, determining whether the application module functioned properly on the target media, and automatically de-installing the application module if the application module failed to function properly.

However, Jystad neither discloses nor suggests “a source of a plurality of application data elements corresponding to a plurality of individually user selectable functions of a particular target application” as in the present claimed invention. Additionally, Jystad neither discloses nor suggests “identifying and extracting selected application data elements from the source in response to user selection of an individual function from said plurality of individually user selectable functions of said particular target application” as in the present claimed invention. Rather, the system disclosed by Jystad is merely concerned with updating software with “new versions” of existing software or with “patches” and “fixes” and providing a “summary of available products and services” (See Jystad, column 5, lines 39-49). This is wholly unlike the present claimed invention. Jystad does NOT contemplate allowing a user to customize an application with individual software functions as in the present claimed invention. Jystad, on the other hand, discloses updating previously installed target applications with “updates”. Moreover, these updates are only to occur if and when the application fails to load (see Jystad, Abstract). Thus, in the system disclosed by Jystad, the user can only update or add functionality on the program level and NOT on the function level from within a target application as in the present claimed invention (Jystad, column 5, lines 24 – 51). Therefore, Jystad does not recognize the need for such a capability or the advantages provided by the present claimed invention such as “more accurate and more complete installation of application data elements in their correct order” (see specification, page 8, lines 6 – 9). Instead Jystad is concerned with fixing applications.

Since patches and/or fixes as installed by the system disclosed by Jystad are NOT new functions, it is clear that Jystad does not provide any 35 USC 112 compliant enabling disclosure that anticipates the present claimed invention. Thus, there is no motivation contained within the disclosure of Jystad which suggests that any update or addition on “a plurality of individual user selectable function of a particular target application” as in the present claimed invention.

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Furthermore, the Rejection cites column 5, lines 9 – 23 as disclosing “a first processor for identifying and extracting selected application data elements from the source in response to the user selection”. Applicant respectfully disagrees. Specifically, the cited portion of Jystad discloses the connection of various systems at a service center to be selectively connected via a communication link to other systems located remotely therefrom wherein the connection is managed by the server. The server managing a connection between systems is wholly unlike the “first processor” of the present claimed invention. The server in Jystad merely manages the connection. Thus, by disclosing a server to manage the connection between systems, Jystad clearly neither discloses nor suggests “a first processor for identifying and extracting selected application data elements from the source in response to user selection...” as in the present claimed invention. Managing a connection as disclosed by Jystad is not equivalent to the “identifying and extracting selected application data elements” of the present claimed invention. Therefore, as the functions in the present claimed invention differ from those disclosed by Jystad, then Jystad cannot possibly anticipate the present claimed invention.

Jystad further makes clear the scope and intention of his system in lines 25 – 34. Therein, Jystad discloses an application for surveying a user’s system to generate a system and user profile thereof in order to interact with a database having content stored therein for providing a summary of content to the user. The summary of the content is application based and does NOT correspond to “a plurality of individually user selectable functions of a particular target application” as in the present claimed invention. As claims 7 and 10 include similar limitations as discussed above regarding claim 1, applicant respectfully submits that claims 7 and 10 are also not anticipated by Jystad.

Applicant further respectfully disagrees with the citation of column 3, lines 37 – 41 and lines 60 - 67 of Jystad as disclosing the present invention as claimed in claim 3. Specifically, sections of Jystad cited neither disclose nor suggest “an authorization processor for inhibiting replacement of corresponding data elements” as in the present claimed invention. Rather, Jystad in lines 37 – 41 disclose creating a user profile to selectively notify users of updates or encourage purchases and, in lines 60 – 67, disclose that the system includes software to allow the utilities to run at an appropriate time and with proper authorization. A software application running with proper authorization is NOT equivalent “an authorization processor for inhibiting

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replacement of corresponding data elements” as claimed in claim 3 of the present invention.

Applicant further respectfully submits that Jystad neither discloses nor suggests “inhibiting replacement of corresponding data elements in response to at least one of (a) billing information, and (b) detection of an error in a data element corresponding to said individual function” as claimed in claim 3 of the present invention. In fact, Jystad makes no mention of “inhibiting replacement... in response to...(a) billing information” as claimed in claim 3. There is no mention by Jystad of “billing information” being used as any operative limitation to inhibit any activity at any point throughout the specification. Additionally, as Jystad is merely concerned with providing data for updating at an application specific level, Jystad neither discloses nor suggests “inhibiting replacement...in response to... detection of an error in a data element corresponding to said individual function” as claimed in claim 3.

The above mentioned portion of Jystad is further erroneously cited in the Office Action as anticipating claim 9 of the present invention. However, applicant respectfully submits that claim 9 cannot be anticipated by column 3, lines 37 – 41 and 60 – 67, or by any other portion of Jystad because Jystad neither discloses nor suggests “an electronic form that includes user billing information received from a remote source” as in the present claimed invention. As discussed above regarding claim 3, Jystad, at no place mentions the use of “billing information” for use as part of their system. Thus, applicant respectfully submits that there is no 35 USC 112 enabling disclosure in Jystad that anticipates the present invention as claimed in claim 3 or claim 9 of the present invention.

Claim 4 recites that “the output processor copies the extracted selected application data elements for providing said individual function of said particular target application to the corresponding file location”. This limitation is also neither disclosed nor suggested by Jystad. Column 5, lines 26 – 50 of Jystad is cited in the Rejection as disclosing the output processor. However, the portion cited merely discloses providing application updates, patches and fixes. Jystad neither discloses nor suggests “providing said individual function of said particular target application to the corresponding file location” as claimed in claim 4 of the present invention. Thus, as the level at which the data is provided differs between the present claimed invention (individual function of target application) and Jystad (target application), it is respectfully submitted that Jystad provides no 35 USC 112 enabling disclosure which anticipates the present invention as claimed in claim 4.

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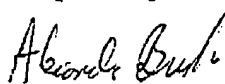
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Column 4, lines 31 – 45 of Jystad is cited as disclosing the features of claim 8. Applicant respectfully disagrees. Specifically, Jystad neither discloses nor suggests “the first processor identifies and extracts selected application data elements in response to user selection of target application” as in the present claimed invention. Rather, Jystad discloses launching of a payload application “after POST (power-on self test) but prior to operation of the OS” which is then displayed on a screen (see Jystad column 4, lines 31-33). If this software is executable prior to interaction with the OS, then it is not possible in Jystad that “the first processor identifies and extracts selected application data elements in response to user selection of target application” as claimed in claim 8 of the present invention. This is because the user cannot possibly interact with the software being executed prior to interaction with the operating system. The portion of Jystad does not require any action to be performed “in response to user selection” and therefore claim 8 is not anticipated by Jystad.

In view of the above remarks and amendments to the claims, it is respectfully submitted that Jystad provides no 35 USC 112 enabling disclosure that anticipates the present invention as claimed in claims 1, 7 and 10. As claims 2 – 6 are dependent on independent claim 1, claims 8 – 9 are dependent on independent claim 7 and claims 11 – 14 are dependent on independent claim 10, applicant respectfully submits that claims 2 – 6, 8 – 9 and 11 – 14 are patentable for the same reasons discussed above regarding claims 1, 7 and 10. Therefore, it is further respectfully submitted that this rejection has been satisfied and should be withdrawn.

In view of the above amendments and remarks, Applicants submit that the Application is in condition for allowance, and favorable reconsideration is requested.

Respectfully submitted,

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